

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD MAY 21, 2003
PHOENIX, AZ**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on May 21, 2003, at AZ POST, 2643 E. University Drive, Phoenix, AZ.

Members Present:

- Chairman James Garcia
- Chief Jerry Sheridan
- Sheriff Gary Butler
- Chief Joe Vernier
- Sergeant Gary Eisenga
- Assistant Director Rod Covey (representing Director Garrett)
- Dr. Michael Polakowski
- Deputy Tamatha Villar
- Ms. Lisa Flores
- Acting Director Charles Ryan

Members Absent:

- Attorney General Terry Goddard
- Sheriff Clarence Dupnik
- Chief Harold Hurtt

Staff in Attendance:

- Tom Hammarstrom
- Lyle Mann
- Lynn Larson
- Colin Peabody
- Gary Maschner
- Steve Jacobs
- Ted Brandon
- Carol Muskus
- Lois Sherlock

Counsel for Board in Attendance:

- Diana Stabler, Asst. A.G.

Guests in Attendance:

Jan Madeya, ACIP
Tom Ruggles, AWCLETA
Earl Sipes, AWCLETA
Guy Phillips, Hayden P. D.
Donna McDaniel, Attorney for Daniel Hunt
Pete Johnson
Douglas Wood, Yavapai College/NARTA
Eben Bratcher, Yuma County Sheriff's Dept.
Robert Oberosler, Yuma County Sheriff's Dept.
Robert Warner, Apache Junction P. D.
Levi Bolton, on behalf of Paul Johnson
Dale Norris
Jon Heiden, AZ Police Corps
Gary Hughes, AZ DPS
Bill VanAusdal, Maricopa County Park Police
Ron Kelley, CPD
Erin Hansen
Tulley Jim, Sr., Dine College P. D.
Eric Hailey, ALEA/Phoenix P. D.
Sam Fragala, AZ DPS
Kathy Sells, NDPS-Window Rock

A. CALL TO ORDER

Chairman Garcia called the meeting to order at 1:30 p.m.

B. INTRODUCTIONS

None given.

C. CONSENT AGENDA

Approved unanimously, motion made by Chief Sheridan, seconded by Sheriff Butler.

1. Minutes of the meeting held on March 19, 2003, were approved as written.
2. Minutes of the Charging Board meeting held on March 19, 2003, were approved as written.
3. Minutes of the Charging Board meeting held on April 16, 2003, were approved as written.

4. Income and Expense Statement – May 2003.

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|----------------------------|---------------|
| Funds as of March 1, 2003 | \$ 659,676.90 |
| CJEF Revenue | 586,871.64 |
| Expenditures/Encumbrances | (335,716.17) |
| Balance for March 31, 2002 | \$ 910,832.37 |

5. The next scheduled Executive Session in accordance with A.R.S. §38-431.03(A)(1), (A)(2), (A)(3) or (A)(4) is Wednesday, July 16, 2003, 1:00 p.m. at Little America Hotel, 2515 E. Butler Avenue, Flagstaff, AZ.

6. The next scheduled Regular Meeting is Wednesday, July 16, 2003, 1:30 p.m. at Little America Hotel, 2515 E. Butler Avenue, Flagstaff, AZ.

6. Ministerial Actions

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

| | |
|--------------------|-------------------------|
| Ralph W. Chandless | Lake Havasu City P.D. |
| Larry C. Lawrence | AZ Dept. of Trans. MVD |
| Craig J. Murowsky | MCSO |
| Mark A. Smith | MCAO |
| Kevin J. Trapp | Marana P. D. |
| Dawn F. Wheeler | NAU P. D. |
| David P. Whiteaker | AZ Dept. of Corrections |

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.
- d. Decertification Case Status Report Updates: As of May 5, 2003, the Compliance and Standards Unit had 94 active decertification cases in various stages of the process. Eight cases are ready for initial presentation; 36 cases need further investigation; 7 cases are

pending service of or response to a Notice of Complaint or Decision; 3 cases are pending hearing, 9 cases are ready for final action, and 31 cases are waiting for outside action, i.e., a criminal trial or civil service hearing.

D. REGULAR AGENDA

1. 2003/2004 Budget. Tom Hammarstrom stated that the Financial Advisory Group met on April 30, 2003, to consider the budget that was prepared by POST staff and to present recommendations to the Board. Sheriff Gary Butler, Chairman of the Financial Advisory Group, reported the Group discussed the proposed budget, and it was a unanimous decision to recommend approving the 2003/2004 budget. Chief Vernier made a motion to approve the 2003/2004 budget as recommended by the Financial Advisory Group, seconded by Deputy Villar, motion carried unanimously.
2. Arizona Western College Law Enforcement Training Academy (AWCLETA) Adherence to Open Enrollment Rule. The Board considered comments from Lyle Mann, Asst. A.G. Diana Stabler, Tom Hammarstrom, AWC Director Tom Ruggles and Earl Sipes.

On February 27, 2003, an audit was conducted of the background information of the Open Enrollment Cadets attending AWCLETA. When reviewing the background file of Cadet Earl Sipes it was noted that he had admitted to smuggling steroids into Arizona from Mexico during April 2000 when he was 18 years of age. The background investigation did not provide information regarding the quantity or disposition of the steroids, subsequently, additional information was requested.

On April 7, 2003, Cadet Sipes submitted to a specific polygraph examination. During the pre-polygraph interview, Cadet Sipes explained that he had entered Mexico with two friends for the purpose of purchasing steroids for one of the friends. They purchased 21 boxes of steroids. Each individual concealed seven boxes in their socks and underwear and returned to Arizona, and he admitted knowing his conduct was illegal.

On January 1, 1994, steroids became a “dangerous drug” as defined in A.R.S. §§13-3401(6)(d). According to A.R.S. §§ 13-3407(A)(1) and (B)(1), a person who knowingly possesses a dangerous drug is guilty of a class 4 felony; in addition, according to A.R.S. §§ 13-3407(A)(7) and (B)(7), a person who knowingly imports a dangerous drug into this state is guilty of a class 2 felony.

A.A.C. §§ R13-4-116 (C)(2) requires an academy to only admit a person who meets the requirements of R13-4-105, which requires the completion of R13-4-106. It is the opinion of staff that Cadet Sipes should not be allowed to proceed in the academy because his felonious conduct jeopardizes public trust and therefore fails to meet the requirement of the rule.

Chief Sheridan made a motion that Arizona Western College expel Earl Sipes from its current Basic Academy, and staff is directed to send Mr. Sipes a letter indicating that he may apply for certification or open enrollment after April 2005. There was not a second motion, motion did not carry.

Sheriff Butler made a motion that Arizona Western College expel Earl Sipes from its current Basic Academy, and staff is directed to send Mr. Sipes a letter indicating that he may apply for certification or open enrollment after April 2007, seconded by Sgt. Eisenga. After further discussion by the Board, motion carried with three nays.

E. REPORTS

1. AZ POST

a. Special Projects.

Tom Hammarstrom reported that at the last Board meeting, the Board directed staff to convene a Subject Matter Expert Committee for the purpose of developing training on the topics of response to mental illness and developmental disabilities. This has been widely applauded and welcomed by members of the mental health community in Arizona, both at state level and among advocacy groups. The Committee is almost finalized with the first meeting scheduled for June 3, 2003.

b. Legislative Update

No report.

2. BASIC TRAINING

Lynn Larson reported that 91% of the model lesson plans have been completed and distributed to the academies; 100% will be

completed by July 1, 2003. We have now completed two years of piloting the process of the comprehensive exam with all active academies participating in the pilot test exams. The scores are rising, and the failure rate is declining. A new data set is being created for implementation on July 2003. Over 2,000 validated test items are currently in our data bank. ALEA's last four graduating classes have had 100% passing scores.

3. POLICE CORPS

Director Jon Heiden reported that the Department of Justice has given Police Corps their ninth budget modification which will allow Police Corps to continue at least through January 2004. The first Police Corps Western Regional Academy is in session, and Arizona has one cadet participating. The second Western Regional Academy will begin July 28, 2003, and we are hoping to have five cadets in that class. Currently, we are processing individuals from throughout the United States. Graduation for the first Western Regional Academy will be July 18, 2003. Arizona has finally been given approval to present scholarships, and hopes to award the first scholarships in the fall semester.

4. ARIZONA DEPARTMENT OF CORRECTIONS

Acting Director Ryan reported that the Department of Corrections continues to accept inmates on a daily basis. The population is the highest it has ever been in the history of ADC. Today there are approximately 30,845 inmates in custody, which are 4,050 more inmates than bed capacity. The sixth and final unit has been opened at the Lewis Complex near Buckeye. It is a 350-bed facility which will house minimum security inmates. ADC is re-erecting tents which were previously taken down at the Perryville Women's Prison and at Douglas, Tucson, and Yuma. By August 2003, the operating capacity within Arizona will be at its limit, and ADC will have to continue to seek authorization to contract inmates in state, federal or private facilities outside of Arizona because there will be no beds in Arizona.

On April 12, 2003, ADC re-instituted a hiring bonus program which represents \$5,160 for new correctional officers at Florence Iman and at Lewis. Lewis Prison operates with a 36% vacancy rate among correctional officers, and 26% vacancy rate at Florence Iman. The hiring bonus offered two years ago reduced the operational vacancy rate among the officers from approximately 50% to 0 within six months. ADC is in competition with many

agencies in Arizona for personnel including Maricopa, Pima and Pinal County detention officers.

5. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE

Tom Hammarstrom reported that AZRCPI is partnering with POST staff to create a response to terrorism curriculum for presentation throughout the state

F. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Arnold Beach, Sr. – Yavapai-Apache Nation Police Department – Chief Vernier made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Ms. Flores, motion carried unanimously.

Case #2 – Michael A. Carry – AZ Department of Transportation, MVD – Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Sheriff Butler, motion carried unanimously.

Case #3 – Tom Horse, Navajo Division of Public Safety – Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of certification), seconded by Sgt. Eisenga, motion carried unanimously.

Case #4 – Daniel C. Hunt – Avondale Police Department – The Board considered comments from Asst. A.G. Diana Stabler and Donna McDaniel, attorney for Mr. Hunt. Ms. Flores requested the record show the Board received Ms. McDaniel's response to the decision of the Administrative Law Judge just before the Board meeting, and she would like more time to review the response. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Sgt. Eisenga, motion carried with one nay vote. Chief Sheridan made a motion to suspend certification from March 22, 2002, until March 22, 2003, seconded by Sgt. Eisenga, motion carried with one nay vote.

Case #5 – Paul H. Johnson – Maricopa County Sheriff's Office – The Board considered comments from Asst. A.G. Diana Stabler, Levi Bolton, character witness for Mr. Johnson, and Paul Johnson. Chief Vernier made a motion to adopt the Consent Agreement, Order and Decision, seconded by Sheriff Butler, motion carried. Chief Vernier made a motion to revoke certification, seconded by Sheriff Butler, motion carried. *Chief Sheridan recused himself from participation and voting.*

Case #6 – Ronald A. Kelley – Chandler Police Department – The Board considered comments from Asst. A.G. Diana Stabler, and Mr. Dale Norris,

attorney for Mr. Kelley. Sergeant Eisenga made a motion to adopt the Consent Agreement, Order and Decision (suspension of certification for a period of 6 months, from August 23, 2002, to February 23, 2003), seconded by Chief Sheridan, motion carried unanimously.

Case # 7 – Harold R. Neuhaus – AZ Department of Public Safety – Sheriff Butler made a motion to adopt the Consent Agreement, Order and Decision with the modification that the suspension be for one year, November 1, 2002 through November 1, 2003, seconded by Chief Sheridan, motion carried with 4 yea votes and 3 nay votes. *Assistant Director Rod Covey recused himself from participation and voting.*

Case #8 – Johnny Salas – Pinal County Sheriff's Office – Sergeant Eisenga made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of certification), seconded by Chief Vernier, motion carried. *Deputy Villar recused herself from participation and voting.*

Case #9 – Anderson Six – Navajo Division of Public Safety – Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Deputy Villar, motion carried unanimously.

Case #10 – Allison J. Stopke – Mohave County Sheriff's Office – Sheriff Butler made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Chief Vernier, motion carried unanimously.

F. CALL TO THE PUBLIC

None received.

G. ADJOURN

Chairman Garcia adjourned the meeting at 3:25 p.m.

Dated May 23, 2003

Lois Sherlock, Recording Secretary